

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FINDTHEBEST.COM, INC.,

Plaintiff,

-against-

LUMEN VIEW TECHNOLOGY LLC, *et al.*,

Defendants.

Case No. 13-cv-6521 (DLC)

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT DALTON SENTRY, LLC’S
MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF PROCEDURE 12(B)(6)**

Defendant Dalton Sentry, LLC (“Dalton Sentry”) submits this memorandum in support of its motion to dismiss the complaint of plaintiff FindTheBest.com, Inc. (“FTB”). So as not to burden the record with duplicative motions, Dalton Sentry joins in the motion of defendants DecisionSorter, LLC, The Hillcrest Group, Inc., Eileen C. Shapiro and Steven J. Mintz to dismiss the complaint under Fed. R. Civ. P. 12(b)(6), and adopts the arguments presented in the Memorandum of Defendants DecisionSorter, LLC, The Hillcrest Group, Inc., Eileen C. Shapiro and Steven J. Mintz in Support of Their Motion to Dismiss dated October 31, 2013.

ARGUMENT

Dalton Sentry is now the record owner of U.S. Patent No. 8,069,073, entitled “System and Method for Facilitating Bilateral and Multilateral Decision-Making” (the “’073 Patent”), which issued to Defendants Eileen C. Shapiro and Steven J. Mintz. Dalton Sentry has exclusively licensed the ‘073 Patent to defendant Lumen View Technology, LLC. On May 29, 2013, Lumen View filed *Lumen View Technology LLC. v. FindTheBest.com, Inc.*, 13-cv-03599-

DLC, which was assigned to this Court (the “Patent Infringement Action”). The filing of the Patent Infringement Action has given rise to FTB’s groundless claims here.

All of the grounds advanced by defendants DecisionSorter, LLC, The Hillcrest Group, Inc., Eileen C. Shapiro and Steven J. Mintz for dismissing the complaint under Fed. R. Civ. P. 12(b)(6), including that FTB’s claims are barred by the *Noerr-Pennington* doctrine, that the complaint fails to state a claim for relief under the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq.*, that the Court should decline to exercise supplemental jurisdiction under 28 U.S.C. § 1367 over FTB’s pendent state law claims, and that those state law claims are defective in any event, are equally applicable to Dalton Sentry. Accordingly, Dalton Sentry joins in their motion, and respectfully urges the Court to dismiss the complaint with prejudice, or to stay it pending the Patent Infringement Action.

CONCLUSION

For foregoing reasons, and for the reasons stated in the Memorandum of Defendants DecisionSorter, LLC, The Hillcrest Group, Inc., Eileen C. Shapiro and Steven J. Mintz in Support of Their Motion to Dismiss dated October 31, 2013, Dalton Sentry respectfully submits that the complaint should be dismissed with prejudice, or stayed pending the Patent Infringement Action, and the Court should grant such additional relief as it deems just and proper.

Dated: October 31, 2013
New York, New York

ALLEGAERT BERGER & VOGEL LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, 2013, I caused the foregoing Memorandum of Law in Support of Defendant Dalton Sentry, LLC's Motion to Dismiss Pursuant to Federal Rule of Procedure 12(b)(6) and a Notice of Motion both dated October 31, 2013, to be electronically filed with the Clerk of Court using the Court's ECF system, which automatically sent notification to all counsel of record.

/s/ Collins Burgess-Jackman
Collins Burgess-Jackman